UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF OHIO

WESTERN DIVISION

ERIC L. JEFFRIES, Plaintiff,	:	
VS.	:	Case No. C-1-02-351 (Judge Beckwith)
CENTRE LIFE INSURANCE COMPANY, et al., Defendants	:	

Deposition of PAULA K. SHEAR, M.D., a witness herein, called by the defendants for cross-examination, pursuant to the Federal Rules of Civil Procedure, taken before me, Angie Portune, a Registered Merit Reporter and Notary Public in and for the State of Ohio, at the offices of Graydon, Head & Ritchey, 1900 Fifth Third Center, 511 Walnut Street, Cincinnati, Ohio, on Wednesday, November 12, 2003, at 10:00 AM.

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comprehensive critique of everything that was in the file.

Q. Okay. You weren't asked to critique the findings of Dr. Sandman or Dr. Bastian; correct?

A. I was asked to review all of the evaluations and to provide a critique particularly of Dr. Hardings' evaluation.

Q. But you weren't provided the raw test data nor the interview notes from either of those neuropsychologists.

A. We discussed getting that, I believe. Part of the difference between their reports and Dr. Hardings' reports is that they incorporated a lot of the raw data in the report itself, so it gives actual test scores and compares them to the norms. So there was less of a need to do that. And I believe that Dr. Sandman said explicitly that he did not conduct a clinical interview as part of the evaluation.

Q. Is that unusual, not to do a clinical interview?

MR. ROBERTS: Objection.

A. That would depend a lot on what the person was asked to do. My impression was that

MR. ROBERTS: Objection.

A. I just want to say again that I did not examine him.

Q. I understand.

A. And so I can't make a diagnosis. I think that really you're asking a medical question. And the question is whether he has a medical disorder that explains his symptoms or not. And that's a question for the physicians.

Q. Were you able, based upon the information that you were provided, to conclude one way or the other whether or not he has a physical ailment or a psychological ailment?

MR. ROBERTS: Objection.

A. I would not diagnose a psychological ailment without seeing the patient, so I can't answer that part. I can say that there are, you know, in these documents, a number of different reports from people who are experts in the field who do seem to feel that he has a medical condition and a medical condition that's often associated with many of the symptoms that he's complaining about.

Q. Okay. Let's explore that. Can you --

condition.

A. Correct.

Q. In your critique of Dr. Hardings, you draw upon the literature and the proforma evaluation and evaluation rules for at least a couple of the tests out of the 21 that he gave; is that right?

A. I need you to help me understand what you mean by proforma.

Q. The general research on interpreting these tests.

A. Okay.

Q. Am I correct?

A. You're referring to manuals and things like that?

Q. Manuals, things like that. Right?

A. Guidelines? Yes.

Q. Would you agree with me that these guidelines or manuals, while important to review and to know, are not to be used by a clinical psychologist, or for that matter a forensic psychologist, as cookbook interpretations of the testing results.?

MR. ROBERTS: Objection.

A. I agree.

Q. Because if they were, then I could do the tests. I wouldn't even need psychological training, right?

A. I'm not sure if that's true.

MR. ROBERTS: Objection.

Q. Well, if I gave the tests according to the manuals as it's set out and got their response, that would not be what you would consider a true neuropsychological examination; correct?

A. That's correct.

Q. Because in order to interpret the results of the tests, you have to look at the validity scales of the tests and how that might affect the answers, and couple that with the clinical interview and the observations of the person doing the test; right?

A. Correct.

Q. Something you did not have the ability to do in this case.

A. I did not have the ability to interview him or observe him. Correct.

Q. Okay. Some of your conclusions, such as on page 4, where you speak about Mr. Jeffries'

highest score being the somatoform disorder, you follow that by saying, "Because the scale is the highest of those for all the clinical syndrome, scores at the level he achieved might be suggestive of mild somatoform symptoms if corroborated by other clinical information." That was your conclusion or is that the way the manual reads?

A. That's my conclusion and it's the way the manual reads.

Q. Okay. So if Dr. Hardings' clinical observations and the review of 3000 pages of medical records supports his conclusion that there's a somatoform disorder, it would not be inconsistent with these testing results; is that right?

A. It would not be inconsistent. These are very subtle elevations.

Q. Well, they're subtle elevations, but he had a very significant score on the scale that suggests he's trying to present himself better off than he is from an emotional and psychological standpoint; correct?

A. Yes, he did.

Q. Pardon?

someone with multiple sclerosis or another clear neurologic disorder, you are seeing personality problems on top of their medical condition or just the medical condition. That's the debate.

Q. Okay. That's an issue we haven't been able to discern yet. Whether we've got test results because there's an overlying personality problem or because it's simply the effects of the disease on the person.

A. And on this particular instrument. Yes.

Q. Okay. When it comes to a series of complaints that cannot be identified or objectified by physical means, and the person has for example a somatoform disorder, you would see the same kind of results?

MR. ROBERTS: Objection.

Q. Because again, there's a focus on physical symptoms.

A. You could see the same results. Yes.

Q. Okay. Which is to say, that these results are consistent with a person who has somatoform disorder.?

MR. ROBERTS: Objection.

A. Yes. They're consistent with a lot of

things.

Q. Okay. To be diagnostic, however, you would have to have a clinical correlation.

A. That's correct.

Q. You spend some time discussing or critiquing Dr. Hardings' use of the Rorschach test, right?

A. Correct.

Q. That's R O R S C H A C H. And that is basically the old ink blot test.

A. That's what it is.

Q. Right? And you questioned the way it was scored by Dr. Hardings; is that right?

A. Yes.

Q. Did you see any scoring by Dr. Hardings of the Rorschach test?

A. I did not. That was part of the problem.

Q. Can the Rorschach test be used even without scoring for purposes other than achieving a score through the normal protocols?

MR. ROBERTS: Objection.

A. That would be very unusual. And it would be up to the person doing it to demonstrate that there's validity to that method.

Q. Do you know how many patients he's observed taking it?

A. No.

Q. Do you know whether or not Rorschach was commonly used in evaluating post-traumatic stress disorder in veterans?

A. I haven't read those studies.

Q. You go down the line of the DSM-IV-TR in ticking off the symptoms that you believed were or were not exhibited by Mr. Jeffries; is that right?

A. I believe I went through the different criteria and talked about whether or not Dr. Hardings showed evidence that those symptoms were present.

Q. You suggest that he can't have -- at least according to the DSM-IV, he can't have a somatoform disorder because there was no sexual symptom; is that right?

A. Somatization disorder.

Q. Somatization disorder. The two things he was lacking was a sexual component and beginning prior to age 30.?

MR. ROBERTS: Objection.

A. Those were two of the things that were

concluded that he may have obsessive traits that actually assisted him in the success of his business life because of the nature of his business?

MR. ROBERTS: Objection. Misstates facts.

A. I wouldn't be surprised. Many successful people have obsessive traits.

Q. Those obsessive traits only become a problem or a disorder if they become focused on something unhealthy.?

MR. ROBERTS: Objection.

Q. To the point of intrusion --

MR. ROBERTS: Objection.

Q. -- in daily activity; is that right?

MR. ROBERTS: Objection.

A. Obsessive traits, per se, are not a disorder. In order to talk about a disorder you have to talk about constellations of symptoms that go together in certain ways.

Q. Do people --

A. But I agree with you that traits are not a disorder.

Q. Right. And people with obsessive traits

seeks diagnoses and opinions from doctors all over the world, is that focus evidence to you of a potential underlying psychological disorder?

MR. ROBERTS: Objection. Misstates facts.

A. I'm very uncomfortable talking about potential disorders without evaluating the patient.

Q. I understand. My question is generic. If someone exhibits these behaviors, and if these behaviors stem from a focus, and that focus and these behaviors interfere with his normal, daily existence, normal daily living, his occupation, his social life, whatever, is that evidence that a clinician would look to in evaluating whether or not there's an underlying psychological problem?

MR. ROBERTS: Objection.

A. I think if there's that degree of preoccupation and it indeed keeps people from doing other things, that that is definitely noteworthy and unusual.

Q. The actual evidence of whether or not that occurred in Mr. Jeffries' case has not been presented to you; correct?

MR. ROBERTS: Objection.